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102D CONGRESS
2d Session

SENATE

REPORT
102-328

ASSASSINATION MATERIALS DISCLOSURE ACT OF 1992

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 3006

TO PROVIDE FOR THE EXPEDITIOUS DISCLOSURE OF RECORDS RELEVANT TO THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

JULY 22 (legislative day, JULY 20), 1992.—Ordered to be printed

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Mr. GLENN, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 3006]

The Committee on Governmental Affairs, to which was referred the bill (S. 3006) to provide for the expeditious public disclosure of all records related to the assassination of President John F. Kennedy, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

CONTENTS

		Page
I.	Text of Bill	1
II.	Committee Action	17
III.	Purpose and Summary	17
IV.	Background and Need for Legislation	19
V.	Major Provisions	20
VI.	Section-by-Section Analysis	34
VII.	Regulatory Impact	49
VIII.	Cost Impact	50

I. TEXT OF BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "President John F. Kennedy Assassination Records Collection Act of 1992".

SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;

(2) all government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;

(3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;

(4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;

(5) legislation is necessary because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;

(6) legislation is necessary because Executive Order No. 12356, entitled "National Security Information" has eliminated the declassification and downgrading schedules relating to classified information across government and has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy; and

(7) most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration; and

(2) to require the expeditious public transmission to the Archivist and public disclosure of such records.

SEC. 3. DEFINITIONS.

In this Act:

"Archivist" means the Archivist of the United States.

"Assassination record" means a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of—

(A) the Commission to Investigate the Assassination of President John F. Kennedy (the "Warren Commission");

(B) The Commission on Central Intelligence Agency Activities Within the United States (the "Rockefeller Commission");

(C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee");

(D) the Select Committee on Intelligence (the "Pike Committee") of the House of Representatives;

(E) the Select Committee on Assassinations (the "House Assassinations Committee") of the House of Representatives;

(F) the Library of Congress;

(G) the National Archives and Records Administration;

(H) any Presidential library;

(I) any Executive agency;

(J) any independent agency;

(K) any other office of the Federal Government; and

(L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy,

but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

"Collection" means the President John F. Kennedy Assassination Records Collection established under section 4.

"Executive agency" means an Executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

"Government office" means any office of the Federal Government that has possession or control of assassination records, including—

(A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives;

(B) the Select Committee on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Government Operations with Respect to Intelligence Activities and other assassination records;

(C) the Library of Congress;

(D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and

(E) any other executive branch office or agency, and any independent agency.

"Identification aid" means the written description prepared for each record as required in section 4.

"National Archives" means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

"Official investigation" means the reviews of the assassination of President John F. Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request

of any Presidential commission or congressional committee, or at the request of any Government official.

"Originating body" means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

"Public interest" means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

"Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

"Review Board" means the Assassination Records Review Board established by section 7.

"Third agency" means a Government agency that originated an assassination record that is in the possession of another agency.

SEC. 4. PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

(a) IN GENERAL.—(1) Not later than 60 days after the date of enactment of this Act, the National Archives and Records Administration shall commence establishment of a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist shall ensure the physical integrity and original provenance of all records. The Collection shall consist of record copies of all Government records relating to the assassination of President John F. Kennedy, which shall be transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The Archivist shall prepare and publish a subject guidebook and index to the Collection.

(2) The Collection shall include—

(A) all assassination records—

(i) that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of this Act;

(ii) that are required to be transmitted to the National Archives; or

(iii) the disclosure of which is postponed under this Act;

(B) a central directory comprised of identification aids created for each record transmitted to the Archivist the under section 5; and

(C) all Review Board records as required by this Act.

(b) DISCLOSURE OF RECORDS.—All assassination records transmitted to the National Archives for disclosure to the public shall be included in the Collection and shall be available to the public for inspection and copying at the National Archives within 30 days after their transmission to the National Archives.

(c) FEES FOR COPYING.—The Archivist shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

(d) ADDITIONAL REQUIREMENTS.—(1) The Collection shall be preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of this Act.

(2) The National Archives, in consultation with the Information Security Oversight Office, shall ensure the security of the postponed assassination records in the Collection.

(e) OVERSIGHT.—The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the Collection.

SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF ASSASSINATION RECORDS BY GOVERNMENT OFFICES.

(a) IN GENERAL.—(1) As soon as practicable after the date of enactment of this Act, each Government office shall identify and organize its records relating to the assassination of President John F. Kennedy and prepare them for transmission to the Archivist for inclusion in the Collection.

(2) No assassination records shall be destroyed, altered, or mutilated in any way.

(3) No assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified.

(4) No assassination record created by a person or entity outside government (excluding names or identifies consistent with the requirements of section 6) shall be withheld, redacted, postponed for public disclosure, or reclassified.

(b) CUSTODY OF ASSASSINATION RECORDS PENDING REVIEW.—During the review by Government offices and pending review activity by the Review Board, each Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review;

(2) transfer is necessary for an administrative hearing or other Review Board function; or

(3) it is a third agency record described in subsection (c)(2)(C).

(c) REVIEW.—(1) Not later than 300 days after the date of enactment of this Act, each Government office shall review, identify and organize each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist.

(2) In carrying out paragraph (1), a Government office shall—

(A) determine which of its records are assassination records;

(B) determine which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form;

(C)(i) determine which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office; and

(ii) transmit to a third agency or other government office those records, or particular information contained in those records, or complete and accurate copies thereof;

(D)(i) determine whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under this Act; and

(ii) specify on the identification aid required by subsection (d) the applicable postponement provision contained in section 6;

(E) organize and make available to the Review Board all assassination records identified under subparagraph (D) the public disclosure of which in whole or in part may be postponed under this Act;

(F) organize and make available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by this Act;

(G) give priority to the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act.

(3) The Director of each archival depository established under section 2112 of title 44, United States Code, shall have as a priority the expedited review for public disclosure of assassination records in the possession and custody of the depository, and shall make such records available to the Review Board as required by this Act.

(d) IDENTIFICATION AIDS.—(1)(A) Not later than 45 days after the date of enactment of this Act, the Archivist, in consultation with the appropriate Government offices, shall prepare and make available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under this Act.

(B) The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.

(2) Upon completion of an identification aid, a Government office shall—

(A) attach a printed copy to the record it describes;

(B) transmit to the Review Board a printed copy; and

(C) attach a printed copy to each assassination record it describes when it is transmitted to the Archivist.

(3) Assassination records which are in the possession of the National Archives on the date of enactment of this Act, and which have been publicly available in their entirety without redaction, shall be made available in the Collection without any additional review by the Review Board or another authorized office under this Act, and shall not be required to have such an identification aid unless required by the Archivist.

(e) TRANSMISSION TO THE NATIONAL ARCHIVES.—Each Government office shall—

(1) transmit to the Archivist, and make available to the public not later than 300 days after the date of enactment of this Act, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and

(2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

(f) CUSTODY OF POSTPONED ASSASSINATION RECORDS.—An assassination record the public disclosure of which as been postponed shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the Archives as required in section 4(e)(2).

(g) PERIODIC REVIEW OF POSTPONED ASSASSINATION RECORDS.—(1) All postponed or redacted records shall be reviewed periodically by the originating agency and the Archivist consistent with the recommendations of the Review Board under section 9(c)(3)(B).

(2)(A) A periodic review shall address the public disclosure of additional assassination records in the Collection under the standards of this Act.

(B) All postponed assassination records determined to require continued postponement shall require an unclassified written description of the reason for such continued postponement. Such description shall be provided to the Archivist and published in the Federal Register upon determination.

(C) The periodic review of postponed assassination records shall serve to downgrade and declassify security classified information.

(D) Each assassination record shall be publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date of enactment of this Act, unless the President certifies, as required by this Act, that—

(i) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, or conduct of foreign relations; and

(ii) the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

(h) FEES FOR COPYING.—Executive branch agencies shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act if there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination is of such gravity that it outweighs the public interest, and such public disclosure would reveal;

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities; or,

(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agency and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSINATION RECORDS REVIEW BOARD.

(a) ESTABLISHMENT.—There is established as an independent agency a board to be known as the Assassinations Records Review Board.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint, without regard to political affiliation, 5 citizens to serve as members of the Review Board to ensure and facilitate the review, transmission to the Archivist, and public disclosure of Government records related to the assassination of President John F. Kennedy.

(2) The President shall make nominations to the Review Board not later than 90 calendar days after the date of enactment of this Act.

(3) If the Senate votes not to confirm a nomination to the Review Board, the President shall make an additional nomination not later than 30 days thereafter.

(4)(A) The President shall make nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

(B) If an organization described in subparagraph (A) does not recommend at least two nominees meeting the qualifications stated in paragraph (5) by the date that is 45 days after the date of enactment of this Act, the President shall consider for nomination the persons recommended by the other organizations described in subparagraph (A).

(C) The President may request an organization described in subparagraph (A) to submit additional nominations.

(5) Persons nominated to the Review Board:

(A) shall be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy;

(B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and

(C) shall include at least 1 professional historian and 1 attorney.

(c) SECURITY CLEARANCES.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(2) All nominees shall qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs of the Senate.

(d) CONFIRMATION HEARINGS.—(1) The Committee on Governmental Affairs of the Senate shall hold confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members.

(2) The Committee on Governmental Affairs shall vote on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and shall report its results to the full Senate immediately.

(3) The Senate shall vote on each nominee to confirm or reject within 14 days in which the Senate is session after receiving the report from the Committee on Governmental Affairs.

(e) VACANCY.—A vacancy on the Review Board shall be filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

(f) CHAIRPERSON.—The Members of the Review Board shall elect one of its members as chairperson at its initial meeting.

(g) REMOVAL OF REVIEW BOARD MEMBER.—(1) No member of the Review Board shall be removed from office, other than—

(A) by impeachment and conviction; or

(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

(2)(A) If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal the President shall submit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

(B) The President shall publish in the Federal Register a report submitted under paragraph (2)(A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

(B) The member may be reinstated or granted other appropriate relief by order of the court.

(h) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(i) DUTIES OF THE REVIEW BOARD.—(1) The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of assassination records.

(2) In carrying out paragraph (1), the Review Board shall consider and render decisions—

(A) whether a record constitutes an assassination record; and

(B) whether an assassination record or particular information in a record qualifies for postponement of disclosure under this Act.

(j) POWERS.—(1) The Review Board shall have the authority to act in a manner prescribed under this Act including authority to—

(A) direct Government offices to create identification aids and organize assassination records;

(B) direct Government offices to transmit to the Archivist assassination records as required under this Act, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent;

(C)(i) obtain access to assassination records that have been identified and organized by a Government office;

(ii) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act; and

(iii) subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under this Act;

(D) require any Government office to account in writing for the destruction of any records relating to the assassination of President John F. Kennedy;

(E) receive information from the public regarding the identification and public disclosure of assassination records; and

(F) hold hearings, administer oaths, and subpoena witnesses and documents.

(2) A subpoena issued under paragraph (1)(C)(iii) may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

(k) WITNESS IMMUNITY.—The Review Board shall be considered to be an agency of the United States for purposes of section 6001 of title 18, United States Code.

(l) OVERSIGHT.—(1) The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

(2) The Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(m) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis.

(n) INTERPRETIVE REGULATIONS.—The Review Board may issue interpretive regulations.

(o) TERMINATION AND WINDING UP.—(1) The Review Board and the terms of its members shall terminate not later than 2 years after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within that 2-year period.

(2) Upon its termination, the Review Board shall submit reports to the President and the Congress including a complete and accurate accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

(3) Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

SEC. 8. ASSASSINATION RECORDS REVIEW BOARD PERSONNEL.

(a) EXECUTIVE DIRECTOR.—(1) Not later than 45 days after the initial meeting of the Review Board, the Review Board shall appoint one citizen, without regard to political affiliation, to the position of Executive Director.

(2) The person appointed as Executive Director shall be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for Executive Director shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate shall qualify for the necessary security clearance prior to being approved by the Review Board.

(4) The Executive Director shall—

(A) serve as principal liaison to Government offices;

(B) be responsible for the administration and coordination of the Review Board's review of records;

(C) be responsible for the administration of all official activities conducted by the Review Board; and

(D) have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

(5) The Executive Director shall not be removed for reasons other than by a majority vote of the Review Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

(b) STAFF.—(1) The Review Board may, in accordance with the civil service laws but without regard to civil service law and regulation for competitive service as defined in subchapter 1, chapter 33 of title 5, United States Code, appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform its duties.

(2) A person appointed to the staff of the Review Board shall be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate for the staff shall qualify for the necessary security clearance prior to being approved by the Review Board.

(c) COMPENSATION.—The Review Board shall fix the compensation of the Executive Director and other personnel in accordance with title 5, United States Code, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(d) ADVISORY COMMITTEES.—(1) The Review Board shall have the authority to create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

(2) Any advisory committee created by the Review Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION RECORDS REVIEW BOARD.

(a) CUSTODY OF RECORDS REVIEWED BY BOARD.—Pending the outcome of the Review Board's review activity, a Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

(2) such transfer is necessary for an administrative hearing or other official Review Board function.

(b) STARTUP REQUIREMENTS.—The Review Board shall—

(1) not later than 90 days after the date of its appointment, publish a schedule for review of all assassination records in the Federal Register; and

(2) not later than 180 days after the date of enactment of this Act, begin its review of assassination records under this Act.

(c) DETERMINATIONS OF THE REVIEW BOARD.—(1) The Review Board shall direct that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

(A) a Government record is not an assassination record; or

(B) a Government record or particular information within an assassination record qualifies for postponement of public disclosure under this Act.

(2) In approving postponement of public disclosure of an assassination record, the Review Board shall seek to—

(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

(B) determine, in consultation with the originating body and consistent with the standard for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

(i) Any reasonably segregable particular information in an assassination record.

(ii) A substitute record for that information which is postponed.

(iii) A summary of an assassination record.

(3) With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceed-

ings conducted by the Review Board with regard to specific assassination records; and

(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

(4)(A) Following its review and a determination that an assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register within 14 days after the determination is made.

(B) Contemporaneous notice shall be made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

(d) PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.—

(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

(2) PERIODIC REVIEW.—Any executive branch assassination record postponed by the President shall be subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the Collection set forth in section 4.

(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records.

(e) NOTICE TO PUBLIC.—Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board shall publish in the Federal Register a notice that summarizes the postponements approved by the

Review Board or initiated by the President, the House of Representatives, or the Senate, including a description of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

(f) REPORTS BY THE REVIEW BOARD.—(1) The Review Board shall report its activities to the leadership of the Congress, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

(2) The first report shall be issued on the date that is 1 year after the date of enactment of this Act, and subsequent reports every 12 months thereafter until termination of the Review Board.

(3) A report under paragraph (1) shall include the following information:

(A) A financial report of the expenses for all official activities and requirements of the Review Board and its personnel.

(B) The progress made on review, transmission to the Archivist, and public disclosure of assassination records.

(C) The estimated time and volume of assassination records involved in the completion of the Review Board's performance under this Act.

(D) Any special problems, including requests and the level of cooperation of government offices, with regard to the ability of the Review Board to operate as required by this Act.

(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

(F) Suggestions and requests to Congress for additional legislative authority needs.

(G) An appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

(4) At least 90 calendar days before completing its work, the Review Board shall provide written notice to the President and Congress of its intention to terminate its operations at a specified date.

SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

(a) MATERIALS UNDER SEAL OF COURT.—

(1) The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

(2)(A) The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

(B) A request for disclosure of assassination materials under this Act shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

(2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glaynoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

SEC. 11. RULES OF CONSTRUCTION.

(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any Executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 12. TERMINATION OF EFFECT OF ACT.

(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

(b) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subjection (a), the President may use such sums as are available for discretionary use to carry out this Act.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

II. COMMITTEE ACTION

S.J. Res. 282 was introduced by Senators Boren (for himself, Mr. Mitchell, Mr. Specter, Mr. Murkowski, Mr. Bradley, Mr. DeConcini, Mr. Glenn, Mr. Metzenbaum, Mr. Wofford, and Mr. Cohen) on March 26, 1992, and referred to the Committee on Governmental Affairs.

Hearings were held on May 12, 1992. Testimony was received from Senator David Boren, Senator Arlen Specter, and Representative Louis Stokes; Robert M. Gates, Director of the Central Intelligence Agency, and William Sessions, Director of the Federal Bureau of Investigation; Ernest May, Professor, Kennedy School of Government; Athan Theoharis, Professor, Department of History, Marquette University, and James Lesar, President, the Assassination Archives and Research Center.

On June 25, 1992, the Committee on Governmental Affairs approved by a voice vote adoption of the amendment in the nature of a substitute offered by Senator Glenn.

III. PURPOSE AND SUMMARY

S.J. Res. 282, as amended, creates a process to publicly disclose all records related to the assassination of President John F. Kennedy. The underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness, speed of records disclosure, and enforceability. In order to achieve these objectives, the Act creates a presumption of disclosure upon the government, and it establishes an expeditious process for the review and disclosure of the records. The Act creates numerous requirements to ensure that the public will be enabled to make its own

observations, judgments, and determinations with regard to the history of the assassination and related matters. In order to provide for the most comprehensive disclosure of records related to the assassination of President Kennedy, the Act empowers an independent review board with the authority to request any additional information or records from relevant government agencies and congressional committees. Finally, the determinations of the review board are reviewable and enforceable in a court of law.

These purposes and objectives were carefully addressed during the development of the new legislation. The "President John F. Kennedy Assassination Records Collection Act" ("the Act") reflects the many recommendations and ideas developed from the hearings, meetings with affected government agencies, and views expressed by members of the public experienced in efforts to access records from relevant agencies in general, and with particular emphasis upon the assassination of President Kennedy. The bill also reflects the considerable research and expertise of the Committee staff with regard to the law and policy of public access to government information.

The legislation establishes the President John F. Kennedy Assassination Records Collection at the National Archives. The Collection will be made known and accessible to the public by the creation of a subject guidebook and index to the records created by the National Archives. The Collection will include all publicly available assassination records at the National Archives at the time of enactment (e.g. public records of the Warren Commission); all assassination records released by government offices pursuant to the Act; all postponed records as part of the "protected" Collection; and all postponed records as they become publicly disclosed in the future. The public will also be able to request reproduction of records from originating government agencies.

Government offices holding assassination records are required to begin organizing and reviewing such records upon enactment and have this work completed within ten months of enactment. During this time, the government offices will determine whether records qualify as "assassination records" and then whether they recommend to the Review Board that public disclosure of certain records be postponed for reasons of national security, confidentiality, and privacy, as established in the Act. All assassination records which are not recommended for postponement must be made immediately available to the public through the government office and by transmission to the National Archives. Records recommended for postponement are required to be reviewed by an independent Assassination Records Review Board, which makes determinations for release or postponement.

In the case of executive branch records and information, the President has the authority to override the Review Board's determinations with regard to release or postponement. For congressional records, in the event that the Congress disagrees with a determination by the Review Board, each House would be required to adopt a resolution to change or create a rule governing the disposition of its records at issue. Such rule-making authority is preserved by the Act. Finally, all postponed records undergo periodic review and must be disclosed in full no later than twenty-five years after

the date of enactment unless, in the case of executive branch records, the President demonstrates that public disclosure will result in an identifiable harm to the national security, intelligence operations, or foreign relations of the United States.

The Assassination Records Review Board is an independent agency within the executive branch. The five-member Review Board will be appointed by the President with the advice and consent of the United States Senate. The confirmation hearings will be conducted by the Committee on Governmental Affairs. The Act requires that the Review Board include at least one historian and one attorney, and that each member is a national recognized professional in his or her field. The legislation requires that prior to making the appointments, the President is required to consider recommendations from the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

To ensure a comprehensive search and disclosure of assassination records, particularly to enable the public to obtain information and records beyond the scope of previous official inquiries, the Review Board has the authority to direct any government office to produce additional information and records which it believes are related to the assassination. It has the authority to subpoena private persons and to enforce the subpoenas through the courts.

The Review Board is authorized for a two-year period and it may be extended by a majority vote of the Review Board for up to an additional year. The Review Board could decide to extend it existence to less than one year if that is the time determined as necessary to complete its work. Annual financial reports and other periodic reports are required to be provided to the Congress. The reports must include statements of progress, the level of cooperation of government offices and agencies, and the possible need for additional time or authority from Congress.

IV. BACKGROUND AND NEED FOR LEGISLATION

On November 22, 1963, President John F. Kennedy was assassinated. It was a tragic and defining moment in American history. The desire by the American public to understand who assassinated President Kennedy, and why, has resulted in several official investigations and a broad spectrum of private inquiries and scholarship. Unfortunately, in the eyes of the public, each investigation and inquiry served to raise additional questions, and did so while increasing the volume of secret government records about the assassination. In 1992, the public demand, fostered by increased media attention, the opening of secret files by changing governments around the world, and other factors, culminated in the recognition by the Congress and the Executive Branch that the records related to the assassination of President Kennedy should be fully disclosed.

In addition to the legislation considered by the Committee, and its counterpart considered by the House Committee on Government Operations, four other related, though more limited, measures were introduced in the House of Representatives in 1992. Two bills mandating the release of all Kennedy assassination investigation

records were H.R. 4090, introduced January 3, 1992, and H.R. 4108, introduced January 24, 1992. Two House resolutions directing the unsealing of the records of the Select Committee on Assassinations were H. Res. 325, introduced January 22, 1992, and H. Res. 326, introduced January 24, 1992.

The Committee shares the belief in the importance of disclosing the records. It believes that all government records related to the assassination of President Kennedy should be preserved for historical and governmental purposes; that all such records should carry a presumption of immediate disclosure; and that all such records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.

The Committee also closely examined the issue of whether legislation was necessary and concluded that it was. While disclosure of the records could be achieved through a non-statutory approach—by each House of the Congress passing a resolution pertaining to its records, and the President issuing an executive order to the same effect—a statute is necessary to ensure an independent and enforceable mechanism for disclosure under uniform standards for review.

In addition, the Committee found that legislation is necessary because congressional records related to the assassination would not otherwise be subject to public disclosure until at least the year 2029 (with uncertain disclosure of related classified executive branch records); because the Freedom of Information Act, as implemented by the Executive Branch, has impeded the timely public disclosure of the assassination records; because Executive Order 12356, "National Security Information," has eliminated the government-wide schedules for declassification and downgrading of classified information and has prevented the timely public disclosure of assassination records; and because most of the records related to the assassination of President Kennedy are at least 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

The release of records and materials in the possession of the federal government pursuant to the legislation will significantly expedite public access to this information. Although certain records related to the assassination of President Kennedy have been made available over time to the public, the legislation will create opportunities for the public to review records which might otherwise not be possible for several decades. Importantly, the public will be enabled to make their own observations and judgments based on first-hand access to previously undisclosed records.

In addition to the above discussion, the Appendix of this report contains a thorough description and summary of the records of the presidential commissions and congressional committees which investigated the assassination of President Kennedy.

V. MAJOR PROVISIONS

The requirements of the "President John F. Kennedy Assassination Records Collection Act" are written in a detailed manner to ensure that its implementation is effective and efficient. In addi-

tion, it is important to emphasize and clarify the legislative intent and importance of particular provisions of the Act.

Defining assassination records

"Assassination records" are defined in Section 3. The definition of "assassination records" is a threshold consideration for the successful implementation of the Act. Its scope will be the barometer of public confidence in the release of assassination records. While the records of past presidential commissions and congressional committees established to investigate the assassination of President Kennedy are included as assassination records under this Act, it is intended and emphasized that the search and disclosure of records under this Act must go beyond those records. While such records are valuable, they reflect the views, theories, political constraints, and prejudices of past inquiries. Proper implementation of this Act and providing the American public with the opportunity to judge the surrounding history of the assassination for themselves, requires including not only, but going beyond, the records of the Warren and Rockefeller Commissions, and the Church and House Select Assassination Committees.

The term "assassination record" was not more specifically defined by the Committee because to do so before more is known about the universe of records would have been premature, and would have further injected the government between the records and the American public. There is a sufficient volume of known assassination records to organize and review at the outset. However, it is intended that the Review Board issue guidance to assist in articulating the scope or universe of assassination records as government offices and the Review Board undertakes their responsibilities. Such guidance will be valuable notwithstanding the fact that government offices will begin to organize and review their records before the Review Board is established. Government offices are required to begin the review and disclosure of records upon enactment to expedite public access to the many records which do not require additional review or postponement. However, the ultimate work of the Review Board will involve not only the review of records recommended for postponement, but requiring government offices to provide additional information and records, where appropriate. Guidance, especially that developed in consultation with the public, scholars, and affected government offices, will prove valuable to ensure the fullest possible disclosure and create public confidence in a working definition that was developed in an independent and open manner.

Autopsy Records

The Act specifically excludes from the definition of "assassination records" the autopsy records and copies or reproductions made from such records donated by the Kennedy family pursuant to a deed of gift executed on October 29, 1966. These records include the autopsy photographs and X-rays of President Kennedy. The Committee believes that this exclusion is a sound policy. The Committee believes that there is a compelling justification for protecting the privacy of the Kennedy family from the unwarranted

intrusion that would be raised by public disclosure of the autopsy records by the deed.

The Committee has carefully examined the deed of gift, which is operative throughout the lifetime of the survivors of the late President Kennedy. The deed in no way restricts access to official government investigators concerned with the assassination. Other members of the public may obtain access to the autopsy photographs and X-rays only with the express written permission of the Kennedy family or their legal representative. The Committee found that since the time of the donation, that public access has been granted judiciously and fairly, and that those best qualified to review and make use of the records have been granted access to the records. It is believed that this practice can and should continue as set forth by the terms of the deed and will rightfully balance the needs for access by professionals with the privacy protection intended by the terms of the deed.

Lastly, the provision also serves to restore to the original autopsy records donated by the Kennedy family to the National Archives any reproductions or copies of such records. This provision specifically governs all reproductions or copies made by official investigative committees or for other purposes, including those created by or for the House Select Committee on Assassinations (HSCA). During its hearings, the Committee was provided a "protocol" or summary inventory of the HSCA records prepared by the National Archives. The "protocol" revealed that the HSCA records contain Kennedy autopsy photographs and X-rays which were duplicated from the original records conveyed by the Kennedy deed. This is true despite a clear and documented understanding between the attorney for the Kennedy family and the National Archives, set forth in an August 15, 1977, memorandum by the National Archives general counsel. This memorandum required that all reproductions or copies of the autopsy records be returned to the original collection. It is intended that the Kennedy autopsy records contained in the HSCA records should be restored to the original collection of such records in the National Archives and treated as Kennedy autopsy records which are exempt from disclosure under the Act.

The President John F. Kennedy Assassination Records Collection and the National Archives and Records Administration

The legislation is designed and retitled to achieve the single most important purpose of the Act: public access to the assassination records. The records related to the assassination of President John F. Kennedy are the most publicly sought-after, unreleased records of our government. It is necessary to ensure that our nation's public access laws apply in full to these records. In Section 4, the Act requires the Archivist to establish the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration [National Archives]. Furthermore, the Archivist, the National Archives, and presidential libraries have specific responsibilities with regard to public access and disclosure, as well as for providing guidance to government offices whose records are the subject of the Act.

Subject Guidebook and Index

Section 4(a) requires that the Archivist create a subject guidebook and index so that the public may identify and make requests for assassination records in the Collection. It is intended that the guidebook and index, or parts thereof, be made publicly available on a cumulative basis. In addition, it is intended that the Archivist ensure that copies of the completed guidebook and index are distributed nationally to ensure access to the Collection through requests for reproduction of documents.

Identification or Finding Aid

In Section 5(d)(B)(1)(A) the Archivist is required to develop an identification aid for all assassination records. The purpose of the identification aid is to serve as a communication tool. It is intended to provide a uniform method for identifying records and create the clearest possible communication between government offices, originating bodies, the Review Board, and others. A final purpose of the identification aid is to serve as a finding aid to those in the National Archives who will be archiving and preparing the subject guidebook of the assassination records. The Archivist's responsibilities with regard to the identification aid are solely for the preparation of a standard form that can be used easily and effectively for the above purposes by all government offices. Each government office must use the identification aid as required by this Act, and the Archivist may not alter or amend those requirements in any way by any additional guidance or regulation.

Fees for Reproduction of Records

The Archivist's responsibilities with regard to making the Collection accessible to the public includes the Committee's concern over the cost of records reproduction. It is intended that the National Archives, along with other executive agencies, are required to make copies of assassination records available to the public at a reasonable cost. Additionally, the Act requires that the fee waiver provisions of the Freedom of Information Act be applied by the National Archives, executive agencies, and all originating bodies including the Congress. The fee waiver provisions are essential provisions of law which have served an important purpose of easing and facilitating public access to government records.

In developing the legislation, the Committee carefully considered the cost of reproduction of the assassination records charged to the public and the application of the Freedom of Information Act fee waiver requirements to the National Archives other government offices which possess assassination records. Just as the definition of the term assassination records is the threshold test for public confidence in the scope of disclosure resulting from the Act, public access itself is the single most important purpose of the Act.

For example, it has been the experience of certain researchers, including the Assassination Archives and Records Center, that it is more expensive to obtain copies of records related to the assassination of President Kennedy from the National Archives than from the originating agencies such as the Central Intelligence Agency (CIA) and the Federal Bureau of Investigation (FBI). The Commit-

tee examined this concern by investigating the cost of obtaining copies of records at the National Archives and at agencies including the CIA and the FBI. The Committee specifically sought to determine the cost of reproduction of records which are "on the shelf" and for which no search is required.

The Committee confirmed that it is more expensive for the public to obtain "on the shelf" records at the National Archives than at originating agencies. This is the result to two factors: Pricing policy and application of the fee waiver provisions of the Freedom of Information Act (FOIA). The National Archives charges the public a higher price for reproduction and does not honor the fee waiver provisions of the FOIA in the belief that it is exempt from such provisions.

The Committee determined that the pricing policy of the CIA and the FBI are identical. Where no search is required, the first one-hundred pages are free, and additional copies cost ten cents per page—regardless of whether the public takes delivery in person at the agency or by mail. In comparison, the National Archives charges the public ten cents per page for copies of records which are requested in person, and twenty-five cents per page for copies of records requiring mailing. The result has been that the National Archives has created a burden on the public to shop around government for the least expensive means of obtaining copies of records. As a result of these findings, and the National Archives determination to continue to charge more for records reproduction than agencies who comply with the Freedom of Information Act fee schedule requirements and guidelines, the Act provides in Section 5(h) that the public may also seek copies of "assassination records" from the originating agencies.

The Committee next determined that it is less expensive for the public to obtain copies of records at originating agencies than at the National Archives because the agencies fee waiver provisions of the FOIA. Again, the Committee was especially concerned with the history of access to "on the shelf" records related to the assassination of President Kennedy. The Committee examined the National Archives claim that it is exempt from such provisions of the FOIA, the influence that this interpretation has had on the cost of records to the public, and the impact of such a policy on uniform and reasonable access and public disclosure costs under this Act.

The Committee determined that application of the FOIA fee waiver provisions are particularly essential with regard to the records related to the assassination of President John F. Kennedy. First, the National Archives is covered by the Freedom of Information Act, there is no exception to this requirement in law, and to create such an exception would undermine the application of the nation's foremost means of public access and government accountability at the nation's foremost repository of government records. Second, without applying the FOIA fee waiver provision to the Kennedy assassination records the National Archives would be acting in a manner which undermines that law. Simply put, the public would lose its rights under the Freedom of Information Act as soon as any record is transferred to the National Archives. Third, as with its pricing policy, its policy with regard to the FOIA fee waiver would create an unnecessary and unreasonable burden

upon the public by requiring that it shop around the government for the least expensive means of records reproduction.

The Committee believes that it is necessary to require the application of the FOIA fee waiver provisions to public requests for records contained in the President John F. Kennedy Assassination Records Collection because to do otherwise would seriously conflict with the purposes and intent of public access and disclosure under the Act. While the Congress cannot specify the exact cost of record reproduction under the Act, it is clearly intended that the costs be reasonable and that the FOIA fee waiver provisions apply at all executive agencies including the National Archives.

Information Security

Another area of responsibility of the Archivist has to do with information security. The Act requires that the Collection include records which are publicly available under the Act as well as those which are postponed. The purpose behind housing postponed records at the National Archives is threefold: First, even though postponed, these records are not exempt, and are therefore a part of the Collection to be disclosed. Second, the Act requires periodic review of postponed records, in addition to the review specifically designated by the Review Board. The Committee believes that such review should occur at a single facility. That will be most effectively achieved by bringing the review committee to the documents and not vice versa. Third, there is less likelihood of loss or destruction, and therefore ease of access at a single central location.

The Act requires that the Archivist consult with the Information Security Oversight Office with regard to the protection of postponed records. This is required because during the course of development of the legislation several agencies expressed reluctance in providing the original or even reproductions of classified or otherwise confidential information to the National Archives. An assessment of the National Archives information security program by the Information Security Oversight Office (ISOO) was requested by Senator Glenn. The results confirmed the concerns of government agencies. For the five year period between August 1987 and March 1992, Mr. Steven Garfinkel, Director of ISOO, identified 35 violations of improper disclosure and handling of classified information by the National Archives at 10 different facilities including the Main Archives Building. Mr. Garfinkel stated that the National Archives "has not devoted or does have sufficient resources to devote to its information security program." He added that the National Archives "currently has only one full-time information security specialist." Mr. Garfinkel cited overcrowding of documents, commingling of classified and unclassified records, and other factors as the security problems at the National Archives.

The requirement in the Act for consultation between ISOO and the National Archives is essential to the Archives fulfilling the responsibilities in the Act for archiving and protecting postponed records. Failure in developing and properly implementing the recommendations of ISOO, and addressing concerns of affected agencies, will prevent the transmission of postponed records to the National Archives.

Publications and Reprints of Documents

The original legislation gave the Archivist the authority to identify records for reproduction and sale by the Government Printing Office. The substitute approved by the Senate Committee on Governmental Affairs does not include this provision. First, it is believed that by requiring the Archivist to complete a subject guidebook and index to the Collection, the public will be best served by having this detailed document-by-document guide. It is expected that this guidebook and index will be nationally distributed and provide the public with the best access to particular records. Second, estimates of the volume of records in the Collection will exceed one million pages, and it is unlikely that the Archivist would consider it feasible to seek multiple reproductions of bound volumes containing all the documents ultimately released. Third, the Act serves to facilitate public disclosure, not to interpret, edit, or evaluate relevant records. To do otherwise would effectively authorize an official government editor, deciding for the American public which documents are "important" and once again interposing the government between the assassination of President Kennedy and the American public. The Archivist retains existing authority to making records available for reprinting and sale by the Public Printer, but such action should be undertaken with the aforestated considerations in mind.

Presidential Libraries

In Section 2, the Act includes presidential libraries within the definition of the National Archives, and in Section 5(C)(3) it specifically requires the directors of presidential libraries to expedite the review of all assassination records and make them available to the Review Board as required by this Act. It is incumbent on the presidential libraries to determine which of its records may qualify as "assassination records", regardless of whether the records were conveyed to the government by a deed or gift or donation, and where appropriate, be reviewed under the standards for postponement of the Act, not the more restrictive standards of the Freedom of Information Act or an executive order on information classification.

This provision reflects the existence of relevant records at presidential libraries, particularly, though not exclusively to include, the Lyndon B. Johnson Presidential Library in Austin, Texas, and the Gerald R. Ford Presidential Library in Ann Arbor, Michigan. Each of these presidential libraries received pertinent records by deeds of gift or donation, but which have either been made publicly available or which are in the process of being made publicly available. Specific sets of records which should be made immediately available for public disclosure, review by the Review Board, and inclusion in the Collection as set forth by this Act.

In development of the legislation, the Committee contacted the Ford and Johnson presidential libraries with regard to the public availability of its holdings. In the case of the Lyndon B. Johnson Presidential Library, the particular provision requiring expedited review, availability to the Review Board, and public disclosure was developed in consultation with its Director.

For the Lyndon B. Johnson Presidential Library, this provision requires the expedited review, availability to the Review Board, and public disclosure of all assassination records, and in particular the relevant portions of the 3,095 tape recorded conversations in the library's possession. These recordings were made by President Johnson, and were donated to the library by his former personal assistant Mildred Stegall in 1973.

For the Gerald R. Ford Presidential Library, this provision requires the expedited review, availability to the Review Board, and public disclosure of all assassination records, and in particular the records of the Rockefeller Commission related to the investigation of the assassination.

Standards for postponement

Section 6 establishes the grounds for postponement of public disclosure of assassination records. It is important to emphasize that postponement means that the records will be publicly available and publicly disclosed at some point in the future, and that the standards for postponement are not exemptions from disclosure. Furthermore, it is intended that the standards operate as discretionary, not compulsory, requirements for disclosure. The underlying principle for applying the standards for postponement remains the presumption of disclosure established by the Act. Any postponed records or information should be narrowly drawn to enable the majority of any record to disclosed immediately, so that the redaction is minimal, and subject to review and disclosure in the near future. It is intended that the Review Board should make its own determinations and that its judgments will be shaped by its experience, knowledge, and expertise during the course of its work. In addition, it is important to emphasize that postponement requires that there be "clear and convincing evidence" that particular standards for postponement are triggered. Certain clarifications, however, may be useful to assist in providing the perspectives of the government, the Congress, and the public.

Intelligence Agents, Sources, or Methods

Section 6(1)(A) permits postponement if the disclosure would "reveal an intelligence agent whose identity currently requires protection." Concerns over the breadth of this provision have been raised by representatives of government agencies and experienced researchers, and have been considered in development of the provision.

Intelligence Agents

One of the earliest concerns was whether the identity of a deceased intelligence agent could be postponed. The government stressed that at times this might be necessary if the disclosure would create a risk of physical harm to surviving family members, especially if any of the survivors are currently employees of a U.S. intelligence organization. In addition, the government stressed that the fact of someone's employment with a U.S. intelligence or counterintelligence organization may have been a secret that requires continued protection. This is related to an additional concern about the definition of an "intelligence agent." The government believes

that it is a term of art and that it should extend to a "domestic or foreign intelligence or counterintelligence asset, collaborator, foreign liaison contact, or covert employee of a United States intelligence organization, where the identity of any of these currently require protection."

From the perspective of some experienced researchers concerning the assassination of President Kennedy, the term "intelligence agent" should not apply to deceased agents. They believe that the majority of records related to such individuals are at least thirty years old and do not require continued protection.

The Committee decided that the Review Board should make its own determinations, and in so doing should consult with the affected agencies, as well as be receptive to the views of the public. In determining whether or not the identity of a deceased agent should be disclosed, the Review Board may wish to consider the impact on survivors as a legitimate question, but the Review Board should satisfy itself as to the basis and need for such an assertion as grounds for postponement. The question of the breadth of the term "intelligence agent" raises a different set of questions. Potentially, the coverage of all individuals employed in an intelligence or counterintelligence capacity by the united States could become extremely wideranging and serve to defeat the presumption of disclosure and purpose of the Act. The Committee hesitates to adopt such a broad definition of "intelligence agent." However, when the Review Board is required to make determinations about the identities of "intelligence agents" it should consider the breadth of responsibilities and assignments which might fall into this category. Again, the Review Board should satisfy itself as to the basis and need for such an assertion as grounds for postponement.

Intelligence Sources and Methods

Section 6(1)(B) permits postponement of an "Intelligence source or method which is currently utilized, or reasonable expected to be utilized." Some researchers experienced in the difficulty of accessing records related to the assassination of President Kennedy have raised concerns over the scope of this provision because in the past "intelligence sources" have included newspapers and libraries, and because "intelligence methods" have included photography and listening devices on telephones. The Review Board should consider a variety of factors related to the need to postpone disclosure of intelligence sources and methods, including the age of the record, whether the use of a particular source or method is already well known by the public (e.g. that the Soviet Embassy in Mexico City was bugged during the alleged visit of Lee Harvey Oswald), and whether the source or method is inherently secret, or whether it was the information it collected which was secret.

Understanding of Confidentiality

Section 6(4) permits postponement if disclosure would "compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or foreign government, and public disclosure would be so harmful that it outweighs the public interest." The government has argued that all such confidentiality requires withholding

to preserve the integrity the promise of confidentiality made by a government agency to a witness in order to obtain testimony or information.

In applying this postponement standard the Review Board should consider: Whether there is an express written confidentiality agreement, whether that agreement is express or implied, whether it is written or unwritten, and the exact restrictions regarding the scope and duration of confidentiality; whether the agreement currently requires protection; whether a witness or informant or confidential source is deceased; and whether the government is seeking postponement purely because it believes all such records should be withheld, or because of the informant's express desire that the understanding not be made public. In all cases where the Review Board is considering postponement, it should keep the withheld information to an absolute minimum, and ensure that the postponement is narrowly drawn is for the shortest possible duration. In so doing, the Review Board should release as much information from the records as is possible.

Priority of reviewing existing Freedom of Information Act requests

Section 5(2)(b)(G) requires that government offices give priority to the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under the Freedom of Information Act. This provision is intended to stop the continued expenditures by the government and private individuals related to litigation over records which will be specifically subject to the Act, and reviewed under different, and in most cases more liberal disclosure standards. An effort to disclose the pertinent records to these requestors will assist in responding to those who have sought access to the assassination records over the longest period of time. A continued delay in release of such records will only serve to undermine confidence by those members of the public whose past interest resulted in the Freedom of Information Act litigation. It is intended that the government offices identify and begin review of such records as a priority upon enactment of the legislation.

Appointment of the Review Board

The Committee first considered the approach proposed in the original legislation. This involved the appointment of an "Assassination Materials Review Board" in the same manner in which independent counsels are selected. This selection process is contained in the Ethics in Government Act, where it provides a method of independently determining the propriety and lawfulness of conduct by government officials. Under this provision the Attorney General of the United States must request the appointment of an independent counsel by a special judicial panel chaired by the Senior Judge of the Federal District Court for the D.C. Circuit.

The Committee carefully reviewed the use of this provision for the creation of the Review Board. The Committee determined that while this approach could possibly enhance the independence of the Review Board and the public confidence in the process, several other factors mitigated against this approach. The Committee

found that the added responsibilities for the Review Board would divest the Court's resources and time from its primary responsibilities under the Independent Counsel law. The Committee was also concerned that the judicial panel lacked the experience and expertise to select individuals who are nationally recognized professionals in the fields of history, archiving, and public access to information.

With these concerns in mind, the Committee chose an alternative approach to the appointment process while giving significant weight to the need for independence, public confidence, and accountability.

Section 7 establishes the Assassination Records Review Board. The Review Board will stand as the symbol and barometer of public confidence in the review and release of the government's records related to the assassination of President Kennedy. The independence of the Review Board will be rightfully judged by the public at its inception. The President is given the authority to appoint the members of the Review Board. Several provisions are intended to provide as much independence and accountability as is possible within our constitutional framework. These include the requirements that the members be confirmed by the United States Senate, that the President consider the recommendations of four private organizations with expertise in the areas of history, archiving, and the law, and that at least one of the members of the board be a historian and another be an attorney. The qualifications are also intended to maintain public confidence by requiring that the board members be nationally recognized professionals in their field. The organizations chosen to make recommendations was restricted to historians, archivists, and attorneys because the records are historical records and historians will want the complete record to form the historical time and context surrounding the assassination; archivists because such background will provide insights and an appreciation for records management and the ultimate disposition of the records in the Collection; and attorneys because of legal issues which may arise in the implementation of the Act, and because of the combined skills of advocacy and judgment. All of these qualifications will be required in the role of a Review Board member, although the President is free to make his own decisions, and similarly other organizations and members of the public are also free to volunteer their recommendations.

The approach presented in the legislation was developed out of a desire to satisfy the public demand for an independent entity which is not controlled by either the Congress or the President. These are essential and vital principles to prevent a conflict of interest and ensure efficient, speedy, and full disclosure of records to the American public.

Review Board authority to request additional information and records

In Section 7(j)(C)(ii) the Act provides the Review Board with the authority to "direct a Government office to make available to the Review Board and if necessary investigate the facts surrounding the disposition of additional information, records, or testimony from individuals, which the Review Board has reason to believe is

required to fulfill its functions and responsibilities under this Act." This provision is extremely important to the proper implementation and effectiveness of the Act because it provides the Review Board with the authority to seek the fullest disclosure possible by going beyond the information and records which government offices initially chose to make available to the public and the Review Board. At the same time, executive branch agencies are fearful that this power will be abused and result in too great a burden to search for potential records and information.

In exercising its authority the Review Board should act on a reasonable basis in requesting additional information or records. It is also intended that the Review Board explore the need for such requests through public comments, hearings, advisory committees, or other means. It is intended that the Review Board consult with the affected government offices regarding such requests, and that all such offices comply expeditiously to satisfy the Review Board's request and need for access.

The Committee has considered requests from the Administration to narrow the Review Board's authority in this area. However, the Committee believes that it would be inconsistent with the purposes of the Act to prematurely limit the scope of this authority. The appropriate scope of such requests and searches should be determined by the Review Board as it conducts its work and becomes more experienced and knowledgeable about the assassination records it seeks, and more certain of the level of cooperation of government agencies. It is expected that in conducting such requests for additional information and records the Review Board consider whether the records are reasonably related to the history surrounding the assassination of President Kennedy, and that the Review Board and its staff be guided by the principle of the need to protect sources, methods, and confidential matters as set forth under the standards in Section 6 of this Act.

Review Board consultation with the public and government offices

Section 8 sets forth the responsibilities of the Review Board. It is intended that the Review Board should consider and consult, where appropriate, with members of the public and with affected agencies. This is essential for purposes of serving the public interest in ensuring the fullest public disclosures of records in an independent and accountable manner, as well as appreciating the governmental interests at stake. The Review Board may wish to hold hearings, or establish other forums to ensure that there is an adequate opportunity for public input and participation.

Furthermore, with regard to government offices which hold assassination records, consultation and dialogue is important to ensure that communication is clear and that the work of the Review Board progresses with efficiency and effectiveness. It is important that the provisions requiring notice of determinations are in compliance with the Act, and that to the extent possible, consultation with the government offices creates an understanding on each side as to the basis and reasons for their respective recommendations and determinations.

Limitations of presidential postponement

Section 9(d)(1) recognizes the President's authority to override the determinations of the Review Board; however, the provision expressly limits such authority to an assassination record or "information contained in an assassination record, obtained or developed solely within the executive branch." This prohibition is intended specifically to restrict the President from having any control or authority over legislative branch records or information. For example, within the files of the House Select Committee on Assassinations (HSCA) there are staff notes rely in part on information obtained or developed by the CIA. Under the "third agency" rule in the Act, the CIA could choose to recommend that the Review Board postpone those portions which it identifies as originating at the CIA. If the Review Board declined the recommendation and the President sought to override the determination, the President would be limited to postpone those sentences or words which were originated or developed by the CIA. The remainder of the document would have to be publicly disclosed.

Rules of construction

Deeds of Gift. Section 11(a) addresses the need to abide by the terms of deeds of gift and donation of records to the federal government. With the exception of the autopsy records which are excluded from the Act, this provision does not intend to exclude other donated records from the scope of assassination records, and all such records made publicly available are to be included in the Collection as established by this Act. It is particularly important that all such records, especially when classified, are considered "assassination records" under the Act so that any declassification review is done under the new standards of this Act, and not the more restrictive standards of the Freedom of Information Act and the executive order on security classified information.

During the development of the legislation, the Committee sought to determine the nature and extent of donations and gifts of "assassination records." It found that records and rights in such records have been transmitted by former Presidents, government officials, and private citizens to government institutions including the Library of Congress, the National Archives, and the presidential libraries. The Committee also familiarized itself with the legal instruments of as many of the gifts and donations as possible, and worked directly with the affected institutions to determine the extent to which such records had been made public or could be made public. When necessary, the Committee requested that the individual, persons, or entities in controlling access to such records make them publicly available.

While many of the records were donated by former Presidents or their families, allowable in part because the Presidential Records Act did not exist until the presidency of Ronald Reagan, certain other individuals have also donated records. The personal papers of former Representative Hale Boggs, a Warren Commission member, were donated to the National Archives by his widow the former Representative Lindy Boggs. In another case, the personal papers of the attorney Elmer Gertz, including the papers related to Gertz's

defense of Jack Ruby, were donated by Mr. Gertz to the Library of Congress. Mr. Gertz required personal written permission for access to these records. The Committee contacted Mr. Gertz and requested that he open these records to the public and remove the access restrictions. Mr. Gertz agreed without hesitation.

In another example, the Lyndon B. Johnson Library was contacted with regard to public access to relevant portions of the more than 3,000 tape recordings of conversations of Lyndon B. Johnson as Vice President and President of the United States. The Library Director, Harry Middleton, was contacted and was asked about making public these tapes and other records which might be viewed as related to the assassination. Mr. Middleton stated that although it was unclear whether anyone else's authority was required to do so, he obtained permission from Mrs. Lyndon B. Johnson in 1990 to begin processing the tapes for public disclosure. It was determined that the project could be completed within the 10 month period for records review under the Act.

In a final example, the Committee contacted the Gerald R. Ford Presidential Library in order to determine the status of the Rockefeller Commission records. Although the Commission devoted a relatively small portion of its time addressing a few questions about the assassination of President Kennedy, the Ford bequest contains the largest and most complete set of Rockefeller Commission records. President Ford had personally required anyone who used the records, including the Department of Justice who investigated criminal wrongdoing, to return the records to him personally. The Committee found that by June, 1992, the Ford Presidential Library had made the Rockefeller Commission records related to the assassination publicly available, and that other related, but still classified, records were available for declassification by originating agencies.

To the extent that there are other "assassination records" which have been donated to the federal government, it is intended that the Review Board fully explore such records and governing legal instruments, and where possible seek the waiver or necessary permission to open the records to the American public.

Title 5 Public Access Provisions and Judicial Review

Sections 11 (b) and (c) address the application of the Freedom of Information Act, and judicial review with regard to activities pursuant to the Act. In the original legislation, the authors chose to exempt the Review Board and the activities authorized by the bill from a number of laws dealing with government accountability. These included the Freedom of Information Act, the Government in the Sunshine Act, the Administrative Procedures Act, and judicial review. This would have the effect of exempting the personnel records of past investigative commissions or committees, even though the very same records of the Warren Commission have been publicly available for at least twenty years. The Committee believes that this is inconsistent with the operative principle of an affirmative presumption of public disclosure.

At the hearings of the Committee, the two original sponsors of the legislation in the Senate, Senator David Boren and Senator Arlen Specter, both called for the application of our nation's laws

ensuring openness and accountability, including the Freedom of Information Act and judicial review. Such laws, as well as the Government in the Sunshine Act, offer adequate protections in the events that meetings need to be closed for reasons of national security, as well as other reasons including personal privacy. However, such exemptions require public notice and this is entirely consistent with the extra level of sensitivity to the accountability and credibility of the Review Board. The applicable laws in Title 5 have been restored to the Act, as has judicial review.

Existing Authority

Section 11(d) provides that nothing in the Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession. This provision is intended to make clear that, although the entities of the Government are required to disclose all assassination records are not covered by the standards for postponement in Section 6, they are not required to withhold or postpone disclosure of assassination records simply because those records are covered by these standards. If an agency or congressional committee has other statutory or inherent authority to release a record, it may do so even though the record would be qualified for postponement for disclosure under the Act. Thus, with respect to the assassination records, the Act sets a floor, but not a ceiling, as to what is to be disclosed. At the same time, nothing in the Act alters any existing rights or duties with respect to public disclosure of materials that are not assassination records.

VI. SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title.

The name of the Act is changed from the Assassination Materials Disclosure Act to the President John F. Kennedy Assassination Records Collection Act of 1992 to reflect its particular purpose, scope, and added priorities.

Sec. 2. Findings, declarations, and purposes.

Section 2 details the congressional findings, declarations, and purposes that are to guide the implementation and administration of the law. It is found and declared that all Government records related to the assassination of President Kennedy should be preserved for historical and governmental purposes, that they should carry a presumption of immediate disclosure, and that they should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination. Legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records. It is also necessary because congressional records related to the assassination of President Kennedy would not otherwise be subject to public disclosure until at least the year 2029; because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President Kennedy; and because Executive Order No. 12356, entitled "National Security Information", has eliminated the declassification and downgrading schedules relating to classified information and has prevented the timely public disclosure of records relating to the assassination of President Kennedy. Finally, most of the records related to the assassination of President Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

The purposes of the law, as indicated in the section, are to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration and to require the expeditious transmission of assassination records to the Archivist and public disclosure of such records.

Sec. 3. Definitions.

1. A definition of "Archivist", to mean the Archivist of the United States, is provided.

2. The term "Assassination record" is clarified to mean a record that is related to the assassination of President Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of (A) the Commission to Investigate the Assassination of President John F. Kennedy (the "Warren Commission"); (B) the Commission on Central Intelligence Agency Activities Within the United States (the "Rockefeller Commission"); (C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee"); (D) the Select Committee on Intelligence (the "Pike Committee") of the House of Representatives; (E) the Select Committee on Assassinations (the "House Assassinations Committee") of the House of Representatives; (F) the Library of Congress; (G) the National Archives and Records Administration; (H) any Presidential library; (I) any executive agency; (J) any independent agency; (K) any other office of the Federal Government; and (L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President Kennedy, but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

3. A definition of "Collection" is added and means the President John F. Kennedy Assassination Records Collection established under section 4.

4. The term "executive agency" means an executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

5. "Government office", another added term, means any office of the Federal Government that has possession or control of assassination records, including (A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives; (B) the Select committee

on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities and other assassination records; (C) the Library of Congress; (D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and (E) any other executive branch office or agency, and any independent agency.

6. As used in the law, "Identification aid" means the written description prepared for each record as required in section 4.

7. "National Archives" means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

8. As used in the law, "Official investigation" means the reviews of the assassination of President Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

9. The term "Originating body" means the executive agency, Government commission, congressional committee, or other governmental entity that created a record of particular information within a record.

10. A definition of "Public interest" is added and means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President Kennedy.

11. As used in the law, "Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

12. Reference to the "Review Board" means the Assassination Records Review Board established by section 7.

13. Another newly added term, "Third agency", means a Government agency that originated an assassination record that is in the possession of another agency.

Sec. 4. President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration.

The law provides generally that, not later than 60 days after the date of its enactment, the National Archives and Records Administration must begin establishing a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist ensures the physical integrity and original provenance of all collection records. The Collection consists of copies of all Government records relating to the assassination of President Kennedy, transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The term "original provenance" is a term of art among archivists and in this application is intended to preserve and archive records according to their point of origin (e.g., CIA records remain archived with CIA records, legislative branch records remain archived with legislative branch records) even though the public is provided with access to a "collection" of records related to the assassination of President Kennedy through a unified subject matter guidebook and index. The Archivist prepares and publishes a subject guidebook and index to the collection. It is intended that the subject guidebook and index be prepared and made available as it is accumulated, and not waiting for public dissemination until the Collection is ultimately complete. Over time, it is intended that successive editions of the guidebook and index will be published and updated. Furthermore, it is intended that copies of the guidebook and index will be made available to depository libraries.

Furthermore, the Collection includes (A) all assassination records that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of the law, that are required to be transmitted to the National Archives, or the disclosure of which is postponed under the law; (B) a central directory comprised of identification aids created for each record transmitted to the Archivist under section 5; and (C) all Review Board records as required by the law.

The term "unredacted" or "redacted" in this Act refers to records or parts of records which have been publicly released by the government in an edited version in which any part of a record is "blacked out" or is otherwise excised from a document.

All assassination records transmitted to the National Archives for disclosure to the public are included in the Collection and must be available to the public for inspection and copying at the National Archives within 30 days after the transmission to the National Archives.

The Archivist is authorized to charge fees for copying assassination records and to grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code, a provision of the Freedom of Information Act.

The Collection is preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of the law.

The National Archives, in consultation with the Information Security Oversight Office, ensures the security of the postponed assassination records in the Collection.

The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate are vested with continuing oversight jurisdiction with respect to the Collection.

Sec. 5. Review, identification, transmission to the National Archives, and public disclosure of assassination records by Government offices.

Section 5(a) generally provides that, as soon as practicable after the date of enactment of the law, each Government office identifies and organizes its records relating to the assassination of President Kennedy and prepares them for transmission to the Archivist for inclusion in the Collection.

No assassination record shall be destroyed, altered, or mutilated in any way.

No assassination record made available or disclosed to the public prior to the date of enactment of the law may be withheld, redacted, postponed for public disclosure, or reclassified. [The term "unredacted" or "redacted" is defined in section 4 of this section-by-section analysis.]

No assassination record created by a person or entity outside of Government (excluding names or identities consistent with the requirements of section 6) may be withheld, redacted, postponed for public disclosure, or reclassified.

Section 5(b) indicates that, during the review by Government offices and pending review activity by the Review Board, each Government office retains custody of its assassination records for purposes of preservation, security, and efficiency, unless the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review; transfer is necessary for an administrative hearing or other Review Board function; or it is a third agency record described in subsection (c)(2)(C).

Section 5(c) provides that, not later than 300 days after the date of enactment of the law, each Government office reviews, identifies, and organizes each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist. In carrying out this requirement, a Government office (A) determines which of its records are assassination records; (B) determines which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form [the term "unredacted" or "redacted" in this Act is defined in section 4 of this section-by-section analysis]; (C) determines which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office, and transmits to a third agency or other Government office those records, or particular information contained in those records, or complete and accurate copies thereof; (D) determines whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under the law, and specifies on the identification aid required by subsection (d) the applicable postponement provision contained in section 6; (E) organizes and makes available to the Review Board all assassination records identified under subparagraph (D), the public disclosure of which, in whole or in part, may be postponed under the law; (F) organizes and makes available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by the law; (G) gives priority to the identification, review, and transmission, under the standards for postponement set forth in the law, of assassination records that on the date of enactment of the law are the subject of litigation under section 552 of title 5, United States Code; and (H) makes available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under the law.

The Director of each archival depository established under section 2112 of title 44, United States Code, expedites review, for

public disclosure, of assassination records in the possession and custody of the depository, and makes such records available to the Review Board as required by the law.

Section 5(d) specifies that, not later than 45 days after the date of enactment of the law, the Archivist, in consultation with the appropriate Government offices, prepares and makes available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under the law. The Archivist ensures that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other. Upon completion of an identification aid, a Government office (A) attaches a printed copy to the record it describes; (B) transmits a printed copy to the Review Board; and (C) attaches a printed copy to each assassination record it describes when it is transmitted to the Archivist. Assassination records which are in the possession of the National Archives on the date of enactment of the law, and which have been publicly available in their entirety without redaction, are made available in the Collection without any additional review by the Review Board or another authorized office under the law, and are not required to have such an identification aid unless required by the Archivist.

Section 5(e) provides that each Government office transmits to the Archivist, and makes available to the public, not later than 300 days after the date of enactment of the law, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of the law, without any redaction, adjustment, or withholding under the standards of the law; and transmit to the Archivist, upon approval for postponement by the Review Board or upon completion of other action authorized by the law, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of the law, to become part of the protected Collection.

Section 5(f) indicates that an assassination record, the public disclosure of which has been postponed, shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the National Archives, as required in section 4(e)(2).

Section 5(g) requires periodic review of all postponed or redacted records by the originating agency and the Archivist, consistent with the recommendations of the Review Board under section 9(c)(3)(B). [The term "unredacted" or "redacted" in this Act is defined in section 4 of this section-by-section analysis.] A periodic review must address the public disclosure of additional assassination records in the Collection under the standards of the law. All postponed assassination records determined to require continued postponement must have an unclassified written description of the reason for such continued postponement. Such description is provided to the Archivist and published in the Federal Register. The periodic review of postponed assassination records serves to downgrade and declassify security classified information. Finally, each assassination record is publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date

of enactment of the law, unless the President certifies, as required by the law, that continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, or conduct of foreign relations, and the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

Section 5(h) authorizes executive branch agencies to charge fees for copying assassination records and to grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code, a provision of the Freedom of Information Act.

Sec. 6. Grounds for postponement of public disclosure of records.

Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of the law if there is clear and convincing evidence that:

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination is of such gravity that it outweighs the public interest, and such public disclosure would reveal (A) an intelligence agent whose identity currently requires protection; (B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

Sec. 7. Establishment and powers of the Assassination Records Review Board.

Section 7 establishes the Assassinations Records Review Board as an independent agency. The President, by and with the advice and consent of the Senate, appoints, without regard to political affiliation, 5 citizens to serve as members of the Review Board to ensure

and facilitate the review, transmission to the Archivist, and public disclosure of Government records related to the assassination of President Kennedy. The President makes nominations to the Review Board not later than 90 calendar days after the date of enactment of the law.

If the Senate votes not to confirm a nomination to the Review Board, the President makes an additional nomination not later than 30 days thereafter.

The President makes nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association. If one of these organizations does not recommend at least 2 nominees meeting the stated qualifications by the date that is 45 days after the date of enactment of the law, the President considers for nomination the persons recommended by the other specified organizations. The President also may request a specified organization to submit additional nominations.

Persons nominated to the Review Board (A) must be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President Kennedy; (B) must be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and (C) must include at least 1 professional historian and 1 attorney.

All Review Board nominees are to be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances. Furthermore, all nominees must qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs of the Senate.

The Committee on Governmental Affairs of the Senate holds confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members. The Committee votes on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and reports its results to the full Senate immediately. The Senate then votes on each nominee to confirm or reject within 14 days in which the Senate is in session after receiving the report from the Committee on Governmental Affairs.

A vacancy on the Review Board is filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

The members of the Review Board elect one of its members as chairperson at its initial meeting.

No member of the Review Board is to be removed from office, other than by impeachment and conviction; or by the action of the

President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal, the President must submit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal. Furthermore, the President must publish in the Federal Register a report on the removal, except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. The member may be reinstated or granted other appropriate relief by order of the court.

A member of the Review Board is compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board. A member of the Review Board also is allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

Regarding duties and responsibilities, the Review Board considers and renders decisions on a determination by a Government office to seek to postpone the disclosure of assassination records. In carrying out this task, the Review Board considers and renders decisions as to whether a record constitutes an assassination record; and whether an assassination record or particular information in a record qualifies for postponement of disclosure under the law.

The Review Board has the authority to act in a manner prescribed under the law, including authority to (A) direct Government offices to complete identification aids and organize assassination records; (B) direct Government offices to transmit to the Archivist assassination records as required under the law, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent; (C) obtain access to assassination records that have been identified and organized by a Government office; direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding the disposition of additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under the law; and subpoena private persons to compel testimony, records, and other information relevant

to its responsibilities under the law; (D) require any Government office to account in writing for the destruction of any records relating to the assassination of President Kennedy; (E) receive information from the public regarding the identification and public disclosure of assassination records; and (F) hold hearings, administer oaths, and subpoena witnesses and documents. Such a subpoena may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board. Also, the Review Board shall be considered to be an agency of the Untied States for purposes of section 6001 of title 18, United States Code, and may issue interpretive regulations regarding its duties and responsibilities.

The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and have access to any records held or created by the Review Board. The Review Board, in turn, has the duty to cooperate with the exercise of such oversight jurisdiction.

The Administrator of the General Services Administration provides administrative services for the Review Board on a reimbursable basis.

The Review Board and the terms of its members terminate not later than 2 years after the date of enactment of the law, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within that 2-year period. Upon its termination, the Review Board submits reports to the President and the Congress, including a complete and accurate accounting of expenditures during its existence, and must complete all other reporting requirements under the law. Upon termination and winding up, the Review Board transfers all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

Sec. 8. Assassination Records Review Board personnel.

Section 8 provides support personnel for the Review Board. Not later than 45 days after the initial meeting of the Review Board, the Review Board appoints one citizen, without regard to political affiliation, to the position of Executive Director. This individual must be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President Kennedy. A candidate for Executive Director is to be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances, and must quality for the necessary security clearance prior to being approved by the Review Board.

The Executive Director serves as principal liaison to Government offices, is responsible for the administration and coordination of the Review Board's review of records and for the administration of all official activities conducted by the Review Board, but has no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

The Executive Director is not to be removed for reasons other than by a majority vote of the Review Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

Additionally, the Review Board may, in accordance with the civil service laws, but without regard to civil service law and regulation for competitive service as defined in subchapter 1, chapter 33 of title 5, United States Code, appoint and terminate other personnel as are necessary to enable the Review Board and its Executive Director to perform its duties. A person appointed to the staff of the Review Board must be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President Kennedy. Each staff candidate is to be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances, and must qualify for the necessary security clearance prior to being approved by the Review Board.

The Review Board fixes the compensation of the Executive Director and other personnel in accordance with title 5, United States Code, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

The Review Board also is authorized to create advisory committees to assist in fulfilling the responsibilities of the Review Board under the law. Any advisory committee created by the Review Board is subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Sec. 9. Review of records by the Assassination Records Review Board.

Section 9 specifies conditions and arrangements for the Review Board's examination of assassination records, beginning with custody considerations. Pending the outcome of the Review Board's review activity, a Government office retains custody of its assassination records for purposes of preservation, security, and efficiency, unless the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review or such transfer is necessary for an administrative hearing or other official Review Board function.

The Review Board, not later than 90 days after the date of its appointment, publishes in the Federal Register a schedule for review of all assassination records, and, not later than 180 days after the date of enactment of the law, begins its review of assassination records pursuant to the provisions of the law. It is intended that two priorities be established by government offices as they begin their review of assassination records: All assassination records which have been previously released in a redacted form, and all assassination records which were the subject of Freedom of Information Act litigation at the time of enactment. As the public is already familiar with previously released records, it is essential

that the fullest possible disclosure of these records be obtained by the public as early as possible. As stated elsewhere, the importance of making the review and disclosure of records at issue in Freedom of Information Act litigation is to expedite public access, and stop the continued expense to the government, taxpayers, and Freedom of Information Act requesters involved in the legal battles over disclosure.

The Review Board directs that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that a Government record is not an assassination record or a Government record or particular information within an assassination record qualifies for postponement of public disclosure under the law. It is intended that all records approved for full disclosure in an unredacted form should be transmitted immediately to the Archivist and made available to the public.

In approving postponement of public disclosure of an assassination record, the Review Board seeks to provide for the disclosure of segregable parts, substitutes, or summaries of such a record, and determines, in consultation with the originating body and consistent with the standards for postponement under the law, which of the following alternatives forms of disclosure shall be made by the originating body: (1) any reasonably segregable particular information in an assassination record; (2) a substitute record for that information which is postponed; or (3) a summary of an assassination record. A "substitute record" is a record which accurately reflects the contents of a record requiring protection to such an extent that the actual record, even in a redacted form, and cannot be released. A summary is an outline or profile of a record which cannot be released even in a redacted form. While it is intended that government office shall have the ability to issue such substitutes or summaries in lieu of an actual record, this practice should be limited to the rarest cases if ever, with the understanding that the release of information other than official records will perpetuate public distrust and undermine public confidence in the government's responsibility to disclose the assassination records.

With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board creates and transmits to the Archivist a report containing a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings conducted by the Review Board with regard to specific assassination records; and a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under the law.

Following its review and a determination that a assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board

notifies the head of the originating body of its determination and publishes a copy of the determination in the Federal Register within 14 days after the determination is made. Contemporaneous notice is made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in the law in the case of legislative branch records. Such notice must contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

Specification is made of Presidential authority over Review Board determinations. After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in a assassination record, obtained or developed solely within the executive branch, the President has the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President must provide the Review Board with an unclassified written certification specifying his decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under the law, stating the justification for his decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

Any executive branch assassination record postponed by the President is subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the collection set forth in section 4. The term "downgrading" refers to reducing the level of information classification, for example, from TOP SECRET to SECRET to CONFIDENTIAL to DECLASSIFIED.

The Review Board must, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of the release of assassination records.

Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board must publish in the Federal Register a notice that summarizes the postponements approved by the Review Board or initiated by the President, the House of Representatives, or the Senate, including a description of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

The Review Board reports its activities to the leadership of the Congress, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity. The first report is issued on the date that is 1 year after the date of enactment of the law, and subsequent reports every 12

months thereafter until termination of the Review Board. Such report must include (A) a financial report of the expenses for all official activities and requirements of the Review Board and its personnel; (B) the progress made on review, transmission to the Archivist, and public disclosure of assassination records; (C) the estimated time and volume of assassination records involved in the completion of the Review Board's performance under the law; (D) any special problems, including requests and the level of cooperation of Government offices, with regard to the ability of the Review Board to operate as required by the law; (E) a record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by the law, and a record of the volume of records reviewed and postponed; (F) suggestions and requests to the Congress for additional legislative authority needs; and (G) an appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

At least 90 calendar days before completing its works, the Review Board must provide written notice to the President and the Congress of its intention to terminate its operations at a specified date.

Sec. 10. Disclosure of other materials and additional study.

Section 10 provides guidance regarding the release of assassination records outside of the immediate purview of the Review Board. It may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President Kennedy that is held under seal of the court. The Review Board also may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President Kennedy that is held under the injunction of secrecy of a grand jury. The section indicates, in this instance, that a request for disclosure of assassination materials under the law shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

In addition, three sense of the Congress provisions specify that (1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury; (2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the Government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glaynoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and (3) all executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President Kennedy consistent with the public interest.

Sec. 11. Rules of construction.

Section 11 sets forth the rules of construction regarding the statute.

When the President John F. Kennedy Assassination Records Collection Act requires transmission of a record to the Archivist or public disclosure, it is to take precedence over any other law (except section 6103 of the Internal Revenue Code), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

Nothing in the statute is to be construed to eliminate or limit any right to file requests with any executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code, which is the Freedom of Information Act.

Nothing in the law is to be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under the statute.

Nothing in the law revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

Finally, to the extent that any provision of the statute establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is to be deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that it is inconsistent with such rules, and with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Sec. 12. Termination of effect of act.

The section provides that the provisions of the law that pertain to the appointment and operation of the Review Board cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o). The remaining provisions of the law, however, continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with the statute.

Sec. 13. Authorization of appropriations.

The section authorizes to be appropriated such sums as are necessary to carry out the law, to remain available until expended. Until such time as funds are appropriated pursuant to the foregoing proviso, the President is authorized to use such sums as are available for discretionary use to carry out the law.

Sec. 14. Severability.

Specification is made that, if any provision of the law or the application thereof to any person or circumstance is held invalid, the remainder of the statute and the application of that provision to other persons not similarly situated or to other circumstances is not affected by the invalidation.

VII. REGULATORY IMPACT

Rule 26.11b of the Standing Rules of the Senate requires the report accompanying each bill or joint resolution of a public character to contain an evaluation of the regulatory impact of the legislation. The evaluation must include the four elements listed below.

1. An estimate of the number of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses. S. 3006, would not result in any additional regulation to any individuals or businesses.

2. A determination of the economic impact of such regulation on the individuals, consumers, and businesses affected. Not applicable.

3. A determination of the impact on the personal privacy of individuals affected. S. 3006, establishes clear standards for the protection of personal privacy. Under Section 6(3), assassination records may be postponed "public disclosure of the record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest" in disclosure. In addition, the application of other standards for disclosure may result in the postponement [under Section 6(1)(A)] of "an intelligence agent whose identity currently requires protection" as well as postponement [under Section 6(2)] of "the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person." These standards are specifically intended to reduce the unwarranted or unreasonable impact on the personal privacy of individuals in a manner consistent with the requirements for public disclosure of records by the legislation.

4. An estimate of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the legislation, including estimates of the amount of time and financial cost required of affected parties, as well as reasonable estimates of the recordkeeping requirement that may be associated with the legislation. No additional paperwork is imposed on the public by S. 3006.

VIII. COST IMPACT

Letter from the Congressional Budget Office

JULY 14, 1992.

Hon. JOHN GLENN,
Chairman, Commission on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 3006, the President John F. Kennedy Assassination Records Collection Act of 1992, as ordered reported by the Senate

Committee on Governmental Affairs on June 25, 1992. We estimate that implementing this resolution would cost the federal government about $4.5 million a year from 1993 through 1995, assuming appropriation of the necessary funds. This resolution would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply.

S. 3006 would create, as an independent agency, the Assassination Records Review Board to consist of five members appointed by the President. After federal agencies have had 300 days to release to the National Archives any unedited assassination records for public inspection, the board would have the authority to examine any remaining records held by a federal agency or by the Congress that the board determines are related to the assassination of President Kennedy. The board would then decide whether the records should be transferred to the National Archives to be available to the public or whether public release should be postponed for national security or privacy reasons. Depending on the source of the records, the House, the Senate, or the President would be able to postpone the availability of records that the board considers appropriate to make public. The board would be able to hire an Executive Director and additional personnel as needed. It would have two years to complete its work, but would be authorized to continue for a third year before it would terminate.

CBO expects that the board would use all three years allowed to conduct its review. The primary expense stemming from this review would be the cost of employees hired by the board and those at several federal agencies which would have to read through the 1 million or so pages of documents relating to President Kennedy's assassination that are still not released. Based on information from the National Archives and other affected agencies about the likely process and timing for reviewing the records, we estimate that it would take about 40 employees at federal agencies to conduct the initial review of records in the allotted 300 days, at a cost of about $2 million in fiscal year 1993. We estimate that the board would need a staff of up to 35 employees to review all the records within the required three-year period, at a cost of about $1.8 million annually. In addition, agencies that currently hold the records would need to assign staff to conduct a parallel review so that the President can decide whether to postpone the release of records that the board decides should be released. Such a parallel review could require the equivalent of up to 35 employees, representing about $1.8 million in annual staff resources.

The review board itself would require additional appropriations of about $0.6 million annually for the director, a counsel, support staff, overhead, and the cost of board meetings. In addition, the National Archives, which eventually would receive all the releasable records into a President John F. Kennedy Assassination Records Collection, would spend about $0.6 million over the next three years to compile a subject guide index to the records in the collection to assist the public in locating records.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we would be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Congressional Budget Office—cost estimate summary

1. Bill number: S. 3006.
2. Bill title: President John F. Kennedy Assassination Records Collection Act.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on June 25, 1992.
4. Bill purpose: To authorize the appropriation of $4.5 million a year in 1993, and 1994, and 1995 for the expedited review and public disclosure of records related to the assassination of President John F. Kennedy. The legislation requires existing agencies and staff to fulfill responsibilities under the Act, and in addition creates the Assassination Records Review Board as an independent agency in the executive branch.
5. Estimated cost to the Federal Government: $4.5 million. Basis of estimate: See letter above.
6. Estimated cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: James Hearn.
10. Estimate approved by: Robert D. Reischauer.

APPENDIX

Chronology and Background Information About the Records of Presidential Commissions and Congressional Committees Which Investigated the Assassination of President John F. Kennedy

The Warren Commission: November 29, 1963–September 24, 1964.

The Rockefeller Commission: January 5, 1975–July 6, 1975.

The Church Committee: January 27, 1975–May 31, 1976.

The House Assassinations Committee: October 17, 1976–December 31, 1977.

THE WARREN COMMISSION

Summary

Creation and Appointment of Members: President Lyndon B. Johnson.

Purpose: To Investigate the Assassination of President John F. Kennedy.

Date of Creation: November 29, 1963.

Date of Termination: September 24, 1964.

Date of Report: September 24, 1964.

Release of Records: By National Archives and Records Administration. Ninety-eight percent complete. Twenty-six volumes of hearings and testimony, on September 24, 1964.

Additional release of records including documents, studies, and materials from other Federal and State agencies: 360 cubic feet of records and related material, approximately 1,000 boxes. In mid-1992, approximately 3,000 pages of national security and privacy protected material remained withheld pending scheduled review in 1995. The Archivist requested agencies to conduct an earlier review in 1992.

Cost of Inquiry: $10 million.

On November 29, 1963, seven days after the assassination of President John F. Kennedy, President Lyndon B. Johnson issued Executive Order 11130 creating the Commission to Investigate the Assassination of President John F. Kennedy.[1] On September 24, 1964, the Commission presented its report and twenty-six volumes of appendices to the President including fifteen volumes of hear-

[1] Earl Warren, Chief Justice of the United States (Chairman), and its members included two United States Senators, Richard Russell and John Sherman Cooper; two members of the House of Representatives, Gerald R. Ford and Hale Boggs; former Director of Central Intelligence, Alan W. Dulles; and a former Commissioner of Germany and attorney, John McCloy.

ings testimony and eleven volumes of exhibits. During its ten-month existence, the cost of the Commission exceeded $10 million.[2]

The Commission relied directly on Federal and State investigative agencies to carry out its investigations. The "records" of the Commission therefore, are a combination of its own work and activities, along with numerous reports and related records from other agencies. According to the "Inventory of the Records of the President's Commission on the Assassination of President Kennedy" compiled by the National Archives, there are approximately 360 cubic feet of records and related material (an estimated 1,000 boxes).[3] These include the minutes of Commission and staff meetings, agenda, proceedings, transcripts of testimony, depositions, and affidavits; correspondence and memorandums; summary reports relating to the assassination and to Lee Harvey Oswald, prepared by the Federal Bureau of Investigation, the Secret Service, the Central Intelligence Agency, other Federal agencies, State authorities, and private citizens. In 1965, agencies whose materials comprise the Commission records first met to review agency records, and establish a schedule for future review. At that time 80% of all material was released. Future review was conducted in 1970, 1975, and other reviews are scheduled to occur in 1995 and every ten years thereafter. Approximately 98% of all records have now been made publicly available. The remaining 2% constitutes approximately 3,000 pages of security classified and privacy protected documents. The 1995 review has been now scheduled to take place in 1992, and the National Archives expects the number of withheld materials to be reduced to 500 pages.[4] In addition to the Warren Commission records, the National Archives maintains Secret Service files with 12–15 boxes, mostly paper documents, a copy of the Zapruder film, and radio tapes of reports of the assassination. The Archives also has certain records of the Department of Justice Criminal Division case file which is predominantly mail and letters received by the Department along with constitutent letters referred to the Department by Members of Congress. Lastly, the Ford Presidential Library has documents from the Military District of Columbia with regard to funeral arrangements for President Kennedy.

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[2] Report of the Select Committee on Assassinations, U.S. House of Representatives. 95th Congress, 2d Session, March 29, 1979. p. 18, n.4.

[3] Inventory of the Records of the President's Commission on the Assassination of President Kennedy. Record Group 272. Compiled by Marion M. Johnson. The National Archives. Washington. 1973. p. 3.

"Investigative reports submitted by the Federal Bureau of Investigation, the Secret Service, and the Central Intelligence Agency; various kinds of documents such as income tax returns, passport files, military and selective service records, and school records relating to Lee Harvey Oswald and Jack Ruby; transcripts of testimony, deposition, and affidavits of witnesses; correspondence; manuals of procedures of federal agencies; administrative memorandums; records relating to personnel; fiscal records; agenda, proceedings, and minutes of Commission meetings and minutes of staff meetings; exhibits; tape recordings, newspapers and press clippings and films; indexes; drafts and printer's proofs of the Report and Hearings of the Commission; a chronology of events in the lives of Oswald, Ruby, and others, 1959–1963; records relating to the interrogation and trial of Jack Ruby; and other records . . . They include all records of the Commission except an undetermined quantity of fiscal records and personnel folders in the custody of the General Services Administration [presumably transferred to the Archives following independence in 1985] . . . Related material is also in Record Group 200, National Archives Gift Collection (Columbia Broadcasting System news films of programs relating to the Report of the Commission broadcast in 1965 and 1967, including scripts for the 1967, and X-rays and photographs relating to the autopsy of President Kennedy)."

[4] Statement by Mary Ronan, National Archives and Records Administration, April 8, 1992, in discussions with Committee staff.

THE ROCKEFELLER COMMISSION

Summary

Creation and Appointment of Members: President Gerald R. Ford.

Purpose: To Investigate Allegations of Illegal Domestic CIA Activity.

Date of Creation: January 5, 1975.

Date of Termination: By July 6, 1975.

Date of Report: June 6, 1975.

Release of Records: Unreleased. Approximately 4,000 pages of materials, including Commission materials and classified agency records reviewed by the Commission, are held by the Gerald R. Ford Presidential Library. Additional material may be held by agencies whose records were reviewed by the Commission including the CIA, FBI, and the Department of State. Relevance to Kennedy Assassination: President Gerald R. Ford created the Rockefeller Commission to investigate CIA activities in the United States. President Ford's Executive Order creating the Commission did not address the Kennedy assassination, but the Commission devoted a small part of its work to the subject. The Commission attempted to answer two questions related to connections between the CIA and possible participants in the assassination (E. Howard Hunt, Frank Sturgis, Lee Harvey Oswald, and Jack Ruby). The Commission attempted to answer one question unrelated to the CIA: Whether the President was killed by a bullet shot from a front trajectory. The Commission conclusion for each concern was in the negative.

Cost of Commission: Not available.

On January 5, 1975, President Gerald R. Ford (himself a member of the Warren Commission) issued Executive Order 11828, creating a Commission on CIA Activities Within the United States. The Commission was established several days after President Ford received a report which he had requested from the Director of Central Intelligence (DCI) on allegations of a number of serious allegations that the Central Intelligence Agency conducted illegal activities within the United States violating the rights of private citizens. The mandate of the Commission was to determine whether any CIA domestic activities exceeded the agency's statutory authority and to make appropriate recommendations. President Ford appointed the Commission Chairman, Vice President Nelson Rockefeller, the Commission members, and the Executive Director.[5]

Although President Ford did not address the assassination of President Kennedy in his executive order creating the Rockefeller Commission, either directly or by reference, the Commission's in-

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[5] Nelson Rockefeller, Vice President of the United States, Chairman; John T. Connor, Chairman of the Board, Chief Executive Officer, Allied Chemical Corporation, and former Secretary of Commerce under President Lyndon B. Johnson; C. Douglas Dillon, Managing Director of Dillon, Reed, & Co. Inc., an investment banking firm, and former Secretary of the Treasury under Presidents Kennedy and Johnson, former Ambassador to France, and Under Secretary of State under President Dwight D. Eisenhower; Erwin N. Griswold, attorney, former Solicitor General under Presidents Johnson and Nixon, former Dean of the Harvard Law School; Lane Kirkland, Secretary-Treasurer of the AFL-CIO; Lyman L. Lemnitzer, General USA Retired, and former Chairman of the Joint Chiefs of Staff; Ronald Reagan, political commentator, former President of the Screen Actors Guild, and former Governor of California; Edgar F. Shannon, Jr., Commonwealth Professor of English, and former President of the University of Virginia.

David W. Belin, Executive Director.

vestigation pursued three primary lines of inquiry related to the assassination. These included: (1) Whether "E. Howard Hunt and Frank Sturgis, on behalf of the CIA, personally participated in the assassination." (2) Whether "the CIA had connections with Lee Harvey Oswald or Jack Ruby, or both of them, and that those connections somehow led to the assassination." (3) Whether President Kennedy was struck in the head by a bullet from his right front, rather than from his rear as believed by the Warren Commission. The Commission's conclusion in each of these inquiries was in the negative.[6]

The Commission held weekly hearings during its six month existence, however, the Commission chose not to open its sessions to the public for reasons of the sensitivity of the CIA's intelligence and counterintelligence activities, and national security. The Commission's Report does not address the disposition of its records, whether the CIA records reviewed were ever transferred outside the agency for purposes of review, the review of records from other agencies, or the whereabouts of Commission records such as interviews with CIA personnel and other sources. The former Executive Director of the Commission, stated that he had no knowledge of where the Commission's records were sent, and that his own Freedom of Information Act request made in 1975 to disclose the Commission's records was denied.[7]

The existence and scope of relevant records is not fully known by the Committee. Archivists at the Ford Presidential Library state that President Ford donated Rockefeller Commission records to the Library as part of his personal papers. Approximately 4,000 pages of this material pertains to the investigation of the Kennedy assassination. Such material has been identified through existing finding aids, file marking, and efforts by Ford Library archivists to trace subjects and names discussed in these materials to other source material used and developed by the Commission. These materials can be divided between records related to the work of the Commission on the assassination specifically, and the work of the Commission and other agencies with regard to Cuba and Fidel Castro. The Commission records ranges from administrative files to the Zapruder film, and includes depositions, official and unofficial transcripts of interviews and testimony, and other materials. The agency records include a variety of classified documents, including

[6] Report to the President by the Commission on CIA Activities Within the United States. June 1975. pp. 251, 269. Chapter 19 of the Report "Allegations Concerning the Assassination of President Kennedy" appears on page 251 through 269. The Commission's conclusion in Chapter 19 states: "Numerous allegations have been made that the CIA participated in the assassination of President John F. Kennedy. The Commission staff investigated these allegations. On the basis of the staff's investigation, the Commission concluded there was no credible evidence of ant CIA involvement" (page 269). With regard to the investigation of whether President Kennedy may have been shot from the front direction, the Commission hired four medical specialists to examine the autopsy photographs, x-rays, the President's personal effects, as well as available films of the assassination. Earlier in Chapter 19, the Commission states with regard to trajectory of a bullet which struck the President: "On the basis of the investigation conducted by its staff, the Commission believes that there is no evidence to support the claim that President Kennedy was struck by a bullet fired from either the grassy knoll or any other position to his front, right front or right side, and that the motions of the President's head and body, following the shot that struck him in the head, are fully consistent with that shot having come from a point to his rear, above him and slightly to his right." (p. 264).

[7] Ibid at Preface, p. XI. Rockefeller Commission Executive Director David Belin made these statements when contacted by telephone on April 23, 1992, by Ms. Suzanne Cavanaugh, Congressional Research Service, Library of Congress.

interagency materials, and records of specific agencies. The Ford Library is attempting to make the Commission records available to the public at the Library in June 1992. The Ford Library is not planning to seek declassification and release of the agency material, but will follow its established procedures of offering researchers at list of such records, and then seeking agency declassification at the researchers' request.

THE CHURCH COMMITTEE

Summary

Creation and Appointment of Members: United States Senate.

Purpose: To Investigate Unethical Activities of U.S. Intelligence Community.

Date of Creation: January 27, 1975.

Date of Termination: May 31, 1976.

Date of Report: Senate Report No. 94-775. 94th Cong., 2d Session, 1976.

Release of Records: Records in custody of Senate Select Committee on Intelligence. No records released. No disclosure date set. Records not subject to Senate rules governing access to non-current Senate records. Records of the Church Committee include those pertaining to its investigation of performance of intelligence agencies in investigating the assassination and assisting the Warren Commission: Interviews and depositions of witnesses, documentary evidence from agencies acquired by the Committee, and documentary evidence reviewed at agencies. Relevance to Kennedy Assassination: The Church Committee investigated "the performance of the intelligence agencies in conducting their investigation of the assassination and their relationships to the Warren Commission."

Cost of Inquiry: Not Available.

On January 27, 1975, the Senate established by S. Res. 21, the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities. The Select Committee was chaired by Senator Frank Church (D-IDAHO), and was created to conduct an investigation into the extent, if any, of improper, or unethical activities engaged in by agencies charged with carrying out intelligence or surveillance to gain intelligence for the Federal Government. In carrying out its mandate, the Church Committee assessed the performance of the intelligence agencies in investigating the assassination of President Kennedy and in assisting the Warren Commission in its investigation. The Committee did not review the Warren Commission, its findings, conclusions, or physical evidence. The Committee concluded that "both the CIA and the FBI failed in, or avoided carrying out, certain of their responsibilities in this matter." The Committee went on to say, however, that this finding "does not lead to the conclusion that there was a conspiracy to assassinate President Kennedy." [8]

[8] "The Investigation Of The Assassination Of President John F. Kennedy: Performance Of The Intelligence Agencies." Book V. Final Report of the Select Committee To Study Governmental Operations With Respect To Intelligence Activities. United States Senate. 94th Congress, 2d Session. S. Rpt. No. 94-755. April 23, 1976. pp. 1,2.

Continued

The Church Committee, which went out of existence on May 31, 1976, forwarded all of its files pertaining to its investigation to the Senate Select Committee on Intelligence. The Senate Intelligence Committee has never administratively transferred these records to the National Archives through the office of the Secretary of the Senate. They remain under the custody of the Senate Intelligence Committee, with the majority, and perhaps the entirety, of the records maintained in a secure storage area at the National Archives. Until they are transferred administratively to the Archives, they are not subject to S. Res. 474 that clarifies procedures for access to non-current Senate records at the National Archives. The existence of records relevant to the assassination of President Kennedy is reflected in a statement by the Select Committee in its Report: "In the course of this investigation, more than 50 witnesses were either interviewed or deposed. Literally tens of thousands of pages of documentary evidence were reviewed at the agencies and more than 5,000 pages were acquired. In addition, the Committee relied on a great deal of testimony taken during the course of its investigation of alleged plots to assassinate foreign leaders, especially testimony of knowledge relating to these plot." [9]

THE HOUSE ASSASSINATIONS COMMITTEE

Summary

Date of Creation: September 17, 1976.

Date of Termination: December 31, 1977.

Date of Report: March 29, 1979. House Report No. 95-1828. Additional 12 volumes of testimony, documents, and exhibits re: JFK assassination also published by the Committee.

Release of Records: Scheduled for release in 2029.

Relevance to Kennedy Assassination: The Committee investigated two assassinations: President John F. Kennedy and Martin Luther King, Jr. A subcommittee was created to investigate the assassination of President Kennedy.

Cost of Inquiry: $5.5 million.

On September 17, 1976, the House of Representatives established, by H. Res. 1540, the House Select Committee on Assassinations (HSCA). The Committee was extended until March 31, 1977 by H. Res. 222, and was further extended for the duration of the 95th Congress by H. Res. 433, adopted on March 30, 1977.[10] During the

The Select Committee voted to release this section of its report on May 26, 1976. Senators Frank Church (D-ID), Philip A. Hart (D-MI), Walter F. Mondale (D-MN), Walter D. Huddleston (D-KY), Robert Morgan (D-NC), Gary Hart (D-CO), Howard H. Baker, Jr. (R-TN), Charles McC. Mathias (R-MD), and Richard Schweiker (R-PA) voted to approve its release. Vice Chairman, Senator John G. Tower (R-TX) and Senator Barry Goldwater (R-AZ) voted against its release. The report was reviewed and declassified by the appropriate executive agencies.

[9] Id. at p. 1.

[10] Louis Stokes (D-OH), Chairman, Richardson Preyer (D-NC), Walter E. Fauntroy (D-DC), Yvonne Brathwaite Burke (D-CA), Christopher J. Dodd (D-CT), Harold Ford (D-TN), Floyd J. Fithian (D-IN), Robert W. Edgar (D-PA), Samuel L. Devine (R-OH), Stewart B. McKinney (R-CT), Charles Thone (R-NE), Harold S. Sawyer (R-MI). Subcommittee on the Assassination of John F. Kennedy chaired by Richardson Preyer.

30 months between the creation of the Committee in 1976 and the release of its report in 1979, its cost exceeded $5.5 million, and it used the services of over 250 people.[11]

The House Assassinations Committee was directed "to conduct a full and complete investigation and study of the circumstances surrounding the assassination and death of President John F. Kennedy" and "to determine whether there was full disclosure and sharing of information and evidence among agencies and departments of the U.S. Government during the course of all prior investigations into those deaths." The House Assassinations Committee reviewed the finding of the Warren Commission, evaluating the evidence presented to that Commission by official bodies, including the FBI and the intelligence community. The Kennedy phase of the investigation addressed charges related to the pro- and anti-Castro Cuban connections, the "single-bullet theory," the involvement of organized crime, the alleged complicity of the CIA, the FBI, and the Secret Service. The Committee criticized these agencies for the manner in which they assisted the Warren Commission. The House Assassinations Committee agreed in some respects with the Warren Commission, but departed from its conclusions in its finding that "* * * on the basis of the evidence available to it, that President John F. Kennedy was probably assassinated as a result of a conspiracy." [12] The Committee went out of existence with the expiration of the 95th Congress (1977).[13] The Committee's report was published on March 29, 1979, a year and one-half after the Committee completed its investigation. Along with the report, the Committee published 12 volumes of testimony and exhibits, totaling over 7300 pages of material, specifically related to its investigation of the assassination of President Kennedy.

Custody of its files passed to the House Permanent Select Committee on Intelligence. Its files were deposited at the National Archives, where, in accordance with prevailing rules of the House of Representatives, they are sealed for fifty years, until the year 2029. A resolution to provide for the accelerated release of the House Assassination Committee's files, H. Res. 160, was introduced on April 13, 1983, by former HSCA member, the late Representative Stewart McKinney, and cosponsored by four former members of the Committee. However, the bill was never reported to the House floor for

[11] Report of the Select Committee on Assassinations, U.S. House of Representatives. 95th Congress, 2d Session, March 29, 1979. p. 18, n.4.

[12] The Committee criticized the performance of those three agencies, saying that "the Secret Service was deficient in the performance of its duties; the FBI performed with varying degrees of competency in the fulfillment of its duties; and the CIA was deficient in its collection and sharing of information both prior to and subsequent to the assassination." House Report No. 95-1828, pp. 1, 2.

[13] The two year investigation entailed a cost of $5.5 million dollars. See, "The Assassination of President John F. Kennedy: Conspiracy Theories." No. 92-270 GOV. Congressional Research Service, Library of Congress. March 10, 1992. p. 8.

a vote.[14] In addition to the legislation presently before this Committee, additional House legislation has been introduced in the 102d Congress with regard to release of the records of the House Assassination Committee.[15]

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[14] The resolution was co-sponsored by four other former members of the HSCA: Representatives Robert Edgar, Harold S. Sawyer, Walter Fauntroy, and Harold Ford.

[15] H. Res. 325. January 22, 1992. Representative Gonzalez. To provide for the release for public use of records of the former Select Committee on Assassinations.

H. Res. 326. January 24, 1992. Representative DeFazio. Requiring that the records of the Select Committee on Assassinations of the 94th and 95th Congresses be made available for public use.

H.R. 4090. January 3, 1992. Representative Traficant. To require the Government-held information pertaining to the assassination of John F. Kennedy be made available to the general public.

H.R. 4108. January 24, 1992. Representative DeFazio. To direct the Archivist of the United States to make available for public use the records of the Warren Commission. [Note: See above section summarizing Warren Commission records. The vast majority of all Warren Commission records have been available to the public at the National Archives for 27 years.]